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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

DMYTRO VEROVKIN,)	No. C 07-3987 CW
)	
Plaintiff,)	
)	
v.)	
)	NOTICE REGARDING REMOVAL
ROSEMARY MELVILLE,* District)	PROCEEDINGS
Director, United States Citizenship and)	
Immigration Services,)	
)	
Defendant.)	

Undersigned counsel hereby notifies the Court that Immigration and Customs Enforcement (“ICE”) has moved to terminate the removal proceedings against Plaintiff without prejudice, pursuant to 8 C.F.R. § 1239.2(c).¹ See Declaration of Melanie Proctor, Exh. A. However, until the immigration judge acts on ICE’s motion, Defendant Melville is without jurisdiction to adjudicate

¹Defendant Melville, in her capacity as District Director of U.S. Citizenship and Immigration Services, does not have any authority over ICE. On March 1, 2003, Congress transferred the INS's functions to the Bureau of Immigration and Customs Enforcement (“ICE”) and the U.S. Customs and Immigration Service (“USCIS”) of the United States Department of Homeland Security (“DHS”). Homeland Security Act of 2002, Pub. L. No. 107-296, §§ 441, 451 & 471, 116 Stat. 2135, 2192, 2195-97, & 2205 (codified at 6 U.S.C. §§ 251, 271, and 291).

*Pursuant to Fed. R. Civ. P. 25(d)(1), Rosemary Melville is substituted for her predecessor, David Still, as the District Director of United States Citizenship and Immigration Services.

1 Plaintiff's application for adjustment of status.

2 Once an alien is in removal proceedings, the immigration court has exclusive jurisdiction
3 over his application for adjustment of status. Haswanee v. United States Attorney General, 471 F.3d
4 1212, 1217 (11th Cir. 2006) (stating that the regulations clearly state that DHS "does not have
5 jurisdiction over adjustment of status applications when the alien has been placed in removal
6 proceedings."); 8 C.F.R. §§ 245.2(a)(1), 245.2(a)(5)(ii). Thus, until the immigration judge
7 terminates the removal proceeding, Defendant Melville cannot act on Plaintiff's application for
8 adjustment of status.²

9 Dated: January 8, 2008

Respectfully submitted,

10 JOSEPH P. RUSSONIELLO
11 United States Attorney

12 /s/
13 MELANIE L. PROCTOR
14 Assistant U.S. Attorney
15 Attorneys for Defendant
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27 ²Furthermore, until the immigration judge terminates proceedings, Plaintiff must appear at
28 any scheduled hearings. 8 U.S.C. § 1229a(a)(5) (stating that failure to appear will result in an order
of removal in absentia).